

ORIGINAL



0000118397

RECEIVED

2010 SEP 27 P 3:20

AZ CORP COMMISSION
DOCKET CONTROL

JEFFREY R. PERRY

Attorney At Law

Jeffrey R. Perry Law Firm, P.C.

7119 E. Shea Blvd., Suite 109-111

Scottsdale, AZ 85254-6107

Phone 480-368-5441 Fax 866-288-4877

September 27, 2010

Arizona Corporation Commission

DOCKETED

SEP 27 2010

Via Hand Delivery

Docket Control Center

Arizona Corporation Commission

1200 West Washington

Phoenix, AZ 85007

DOCKETED BY

Re: In the Matter of Ethan Sturgis Day, et al.; Docket No. S-20751A-10-0300

Ladies and Gentlemen:

Enclosed is the original and 13 copies of the Answer of Ethan Sturgis Day and Theresa Day and Request for Hearing for filing in the referenced matter.

Thank you for your courtesy and consideration in making this filing. Should you have any questions, feel free to call me directly.

Yours very truly,

Jeffrey R. Perry Law Firm, P.C.

Jeffrey R. Perry,
President

cc: William W. Black – Securities Division ACC - **Via Hand Delivery**

1 Jeffrey R. Perry
State Bar No. 019942
2 Jeffrey R. Perry Law Firm, P.C.
7119 E. Shea Blvd., Suite 109-111
3 Scottsdale, AZ 85254-6107
Telephone 480-368-5441
4 Facsimile 866-288-4877

RECEIVED

2010 SEP 27 P 3: 20

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

5 Attorney for Respondent Ethan Sturgis Day and Respondent Spouse Theresa Day

6 **BEFORE THE ARIZONA CORPORATION COMMISSION**

7 COMMISSIONERS

8 KRISTIN K. MAYES, Chairman
9 GARY PIERCE
PAUL NEWMAN
10 SANDRA D. KENNEDY
BOB STUMP

11
12 In the Matter of:

13 ETHAN STURGIS DAY and THERESA
DAY, respondent and spouse,

14 SILVERSPRINGS REAL ESTATE
15 DEVELOPMENT & INVESTMENTS,
L.L.C., formerly known as SILVERLEAF
16 REAL ESTATE DEVELOPMENT &
INVESTMENTS, L.L.C., a revoked Nevada
17 limited liability company,

18 DESERT OASIS CONDOMINIUM, L.L.C., a
revoked Nevada limited liability company,

19 THE MAYAN RESORT & CASINO, L.L.C.,
20 a revoked Nevada limited liability company,

21 Respondents.

DOCKET NO. S-20751A-10-0300

**ANSWER OF RESPONDENT ETHAN
STURGIS DAY AND RESPONDENT
SPOUSE THERESA DAY AND
REQUEST FOR HEARING**

22
23 Respondent Ethan Sturgis Day and Respondent Spouse Theresa Day (collectively the
24 "Respondents") answer the above-captioned Notice of Opportunity for Hearing Regarding

1 Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties
2 and Order for Other Affirmative Relief ("Notice") as follows:

3 **I. JURISDICTION**

- 4 1. Respondent have insufficient information to admit or deny the allegations contained
5 in paragraph 1.

6 **II. RESPONDENTS**

- 7 2. Respondents admit the allegations contained in paragraph 1.
- 8 3. Respondents admit the allegations that SILVERSPRINGS REAL ESTATE
9 DEVELOPMENT AND INVESTMENTS, L.L.C., formerly known as SILVERLEAF
10 REAL ESTATE DEVELOPMENT & INVESTMENTS, L.L.C., (together referred to
11 as "Silverleaf"), was formed in Nevada on May 19, 2005 and was revoked effective
12 June 1, 2010 and deny the allegations that Day is identified as the manager.
- 13 4. Respondents admit the allegations that DESERT OASIS CONDOMINIUM, L.L.C.
14 ("Desert Oasis") was formed in Nevada on May 19, 2005 and was revoked effective
15 June 1, 2009 and deny the allegations that Day is identified as the manager.
- 16 5. Respondents admit the allegations that THE MAYAN RESORT & CASINO, L.L.C.
17 ("The Mayan Resort") was formed in Nevada on May 19, 2005 and was revoked
18 effective June 1, 2009 and deny the allegations that Day is identified as the manager.
- 19 6. Respondents deny the allegations contained in paragraph 6.
- 20 7. Respondents admit that Theresa Day is the spouse of Ethan Sturgis Day but deny all
21 other allegations contained in paragraph 7.
- 22 8. Respondents deny the allegations contained in paragraph 8.

23 **III. FACTS**

- 24 9. Respondents deny the allegations contained in paragraph 9.

- 1 10. Respondents admit the allegations contained in paragraph 10.
- 2 11. Respondents deny the allegations contained in paragraph 11.
- 3 12. Respondents deny the allegations contained in paragraph 12.
- 4 13. Respondents deny the allegations contained in paragraph 13.
- 5 14. Respondents deny the allegations contained in paragraph 14.
- 6 15. Respondents deny the allegations contained in paragraph 15.
- 7 16. Respondents deny the allegations contained in paragraph 16.
- 8 17. Respondents deny the allegations contained in paragraph 17.
- 9 18. Respondents deny the allegations contained in paragraph 18.
- 10 19. Respondents admit the allegations contained in paragraph 19.
- 11 20. Respondents admit the allegations contained in paragraph 20.
- 12 21. Respondents deny the allegations contained in paragraph 21.
- 13 22. Respondents admit that Day was a signatory on bank accounts of Silverleaf, Desert
- 14 Oasis and The Mayan Resort and deny the other allegations contained in paragraph
- 15 22.
- 16 23. Respondents deny the allegations contained in paragraph 23.
- 17 24. Respondents deny the allegations contained in paragraph 24.
- 18 25. Respondents deny the allegations contained in paragraph 25.
- 19 26. Respondents deny the allegations contained in paragraph 26.
- 20 27. Respondents admit that all of the principal has not been returned but deny the other
- 21 allegations contained in paragraph 27.
- 22 28. Respondents admit the allegations contained in paragraph 28.
- 23 29. Respondents admit the existence of promissory notes and deny the other allegations
- 24 contained in paragraph 29.

1 30. Respondents admit that Day signed promissory notes on behalf of Desert Oasis and
2 The Mayan Resort but deny the other allegations contained in paragraph 30.

3 31. Respondents admit the allegations contained in paragraph 31.

4 32. Respondents admit the allegations contained in paragraph 32.

5 33. Respondents admit the allegations contained in paragraph 33.

6 34. Respondents admit that deeds of trust were prepared but deny the other allegations
7 contained in paragraph 34.

8 35. Respondents deny the allegations contained in paragraph 35.

9 36. Respondents deny the allegations contained in paragraph 36.

10 37. Respondents deny the allegations contained in paragraph 37.

11 38. Respondents deny the allegations contained in paragraph 38.

12 **IV. VIOLATION OF A.R.S. § 44-1841**

13 **(Offer or Sale of Unregistered Securities)**

14 39. Respondents deny the allegations contained in paragraph 39.

15 40. Respondents deny the allegations contained in paragraph 40.

16 41. Respondents deny the allegations contained in paragraph 41.

17 **V. VIOLATION OF A.R.S. § 44-1842**

18 **(Transactions by Unregistered Dealers or Salesmen)**

19 42. Respondents deny the allegations contained in paragraph 42.

20 43. Respondents deny the allegations contained in paragraph 43.

21 44. Respondents deny the allegations contained in paragraph 44.

22 **VI. VIOLATION OF A.R.S. § 44-1991**

23 **(Fraud in Connection with the Offer or Sale of Securities)**

24 45. Respondents deny the allegations contained in paragraph 45.

1 46. Respondents deny the allegations contained in paragraph 46.

2 Respondents deny each and every allegation not specifically admitted herein.

3 **VII. AFFIRMATIVE DEFENSES**

4 Respondents allege by way of affirmative defense, that the claims and relief
5 requested by the Securities Division are barred by the exceptions for any alleged liability
6 as a controlling person under A.R.S. § 44-1999.

7 As a further affirmative defense, Respondents allege that the Notice fails to state a
8 claim upon which relief can be granted.

9 As a further affirmative defense, Respondents allege that the claims and relief
10 requested by the Securities Division are barred by limitations of actions under A.R.S. §
11 44-2004.

12 As a further affirmative defense, Respondents allege that the alleged conduct
13 upon which the claims and relief requested by the Securities Division are based, was
14 undertaken, if at all, in reliance upon a legal opinion rendered for the benefit of
15 Respondents and confirming compliance with applicable securities laws.

16 **VIII. HEARING OPPORTUNITY**

17 Respondents request a hearing on this Notice before the Commission in
18 accordance with A.R.S. § 44-1972 and A.A.C. R14-4-306.

IX. REQUESTED RELIEF

1. Respondents request that the Commission deny the requested relief.
2. Respondents request that the Commission deny the requested relief.
3. Respondents request that the Commission deny the requested relief.
4. Respondents request that the Commission deny the requested relief.
5. Respondents request that the Commission deny the requested relief.

Respondents request that the Commission deny all the relief requested by the Securities Division, that the Notice be dismissed and that the Commission grant the Respondents their attorneys fees and costs and such other and further relief as Respondents may be justly entitled.

RESPECTFULLY SUBMITTED this 27th day of September, 2010.

JEFFREY R. PERRY LAW FIRM, P.C.

By: 

JEFFREY R. PERRY
Attorney for Respondent Ethan Sturgis Day and
Respondent Spouse Theresa Day

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

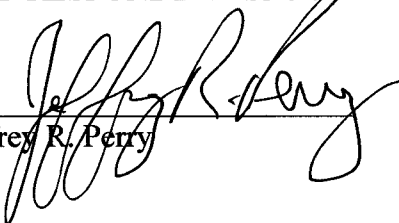
Original of the foregoing filed and copies hand delivered
this 27th day of September, 2010 to:

Docket Control Center
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Copy of the foregoing hand delivered this
27th day of September, 2010 to:

William W. Black
Securities Division
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, AZ 85007

ATTORNEY FOR RESPONDENT ETHAN STURGIS DAY
AND RESPONDENT SPOUSE THERESA DAY



Jeffrey R. Perry